



Working towards equality and diversity

A guide for hospices



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1. Introduction

Welcome to ‘Working towards equality and diversity – A guide for hospices’.

This guide follows on from the ‘Widening access to hospice care’ briefing published in 2006. It covers key developments since that document was published and aims to provide staff and trustees with some practical guidance to help them ensure their services are reaching the diverse range of communities and individuals that need them.

The hospice movement is committed to the principle that everyone should have a ‘good death’. To make this principle real it is crucial that hospices ensure that their services are accessible to all communities, to all conditions and irrespective of social circumstances including age, disability, gender reassignment, race, religion or belief, sex or sexual orientation.

While many organisations operate with equal opportunities policies and make explicit their commitment to diversity in their mission statements and aims, there is still some work to do to ensure that diversity is embedded in all aspects of any organisation’s work.

Current healthcare provision often fails to meet the needs and preferences of individuals who face the end of life.⁽¹⁾ Comprehensive information about the diversity of hospice staff, volunteers and trustees is not available, but in general hospices are not seen as diverse organisations. Initiatives, such as the ‘Widening access through nurse leadership’⁽²⁾ programme, have helped in trying to address this issue and there are examples of hospices setting very positive examples. Nevertheless there is some way to go.

Heather Richardson, national clinical lead for Help the Hospices, says:

“Hospices make a vital contribution to supporting people at the end of life and their families, helping 360,000 people each year to live well by providing care that is dignified and personal.

“However, there are still too many people who could benefit from palliative care but are not receiving it, often because of barriers relating to their illness or social and cultural factors.

“As a society, we must collaborate to widen access to hospice care, not only to meet the present need but also to cope with increased demand in years to come, as more of us will live longer with more complex conditions.

“It is estimated that 92,000 people who could benefit from palliative care each year do not receive it, so it is crucial to recognise what the barriers are.⁽³⁾

“In many languages, there isn’t even a direct translation for the word ‘hospice’. Cultural beliefs and attitudes around death, dying and illness can also vary hugely and affect people’s views on palliative care.

“By engaging with under-represented groups such as ethnic minorities, understanding their needs and concerns and adapting their services accordingly, hospices can help many more dying people and their families to live well.”

This guide looks to address two broad aims:

- to provide an overview of the equality and diversity agendas, and
- to provide practical advice about how to drive those agendas within individual hospices.

It will help organisations:

- understand where they are in relation to promoting equality and diversity
- ensure they are meeting their statutory obligations under equality legislation
- by encouraging them to move beyond compliance, and
- by providing pointers to more detailed advice and guidance.

The hospice sector covers a range of organisations of different sizes, providing a variety of services and working within varied communities. They are likely to be at different stages of development in promoting equality and diversity. This guide is intended to be useful to all hospices; those in the early stages of their work in this area, as well as those that are more advanced. Equality and diversity is crucial to all organisations.

This guidance should be read in conjunction with 'Widening access through nurse leadership'. This showcased many examples of hospices taking practical and positive steps to widen access to their services and taking forward the equality and diversity agenda in their organisations.

Acknowledgements

This guide was written by Nicolas Mitchell of Insightful Solutions and builds upon 'Widening access to hospice care' (2006) by Yasmin Guneratnam. Some elements of our previous document have been included or updated in this publication in recognition of their ongoing relevance. Thank you to Yasmin for allowing us to do this.

We would also like to thank Peter Ellis (Richard House Children's Hospice), Barbara Monroe (St Christopher's Hospice), Jane Petit (St Elizabeth Hospice) and Sarah Whitfield (formerly of Dorothy House Hospice) for sharing their thoughts about aspects of the equality and diversity agendas.

2. The importance of equality and diversity

Definitions

In what follows, to avoid any confusion around equality and diversity terminology, we have used the Department of Health's definitions of key terms.⁽³⁾

"Equality is essentially about **creating a fairer society** where everyone can participate and has the opportunity to fulfil their potential. It is backed by legislation designed to address unfair discrimination [past, present or potential] that is based on membership of a particular group. In some circumstances, positive action is encouraged to address discrimination.

"Diversity is about the **recognition and valuing of difference** in its broadest sense. It is about creating a working culture and practices that recognise, respect, value and harness difference for the benefit of the organisation and the individual.

Equality and diversity are not inter-changeable but are inter-dependent. There is no equality of opportunity if difference is not recognised and valued."

Background

Equality is not a minority issue: it is important for everyone and directly affects the majority of the population. Women represent 51% of the population, people with long-term health problems or disability around 18%, people from black and minority ethnic communities over 14% and people over 65, 16%.⁽⁴⁾

The UK is an increasingly diverse place to live. However, equality and diversity challenges still remain and they affect bodies providing healthcare and care and support often in particular ways. Hospices have a key role to play because:

- People needing palliative and end of life care are diverse; recognising and responding to that diversity is key to delivering high quality personalised services.
- The communities in which hospices operate are diverse and, as 'community anchors', hospices have an influential and long term stake in the communities they serve. As providers of care they can play a key role in challenging prejudice and combating discrimination in those communities.

There are many drivers prompting hospices to respond to the social diversity in their communities, and to reflect this in their organisational cultures. The requirements of legislation and the expectations of commissioners, regulators, service users and communities mean that hospices must be able to show how their services are meeting the needs of everyone in their communities.

The social and ethical case

Equality and diversity are fundamental to delivering high quality personalised services – the very purpose of hospice care.

Some organisations implement diversity policies simply because it is the right thing to do. Organisations are, in general, aware of changing social values and the public's high expectations in relation to social justice issues such as equality and diversity. Staff, volunteers, trustees and the communities they serve also have growing expectations of organisations that promote inclusion, respect, equity and openness.

As members of the voluntary and community sector, hospices have a role to play in supporting the development of an environment where everyone can live and work without encountering prejudice or discrimination, where diversity in gender, race, disability, sexual orientation, religion, belief and age is recognised and celebrated.

“Despite the success of the hospice sector there are still people who face the end of life without specialist care and support. Palliative care is a human right and in the UK we still have a lot of work to do to make sure that everyone is supported at the end of life, irrespective of where they choose to be cared for, where they live or what conditions they have.”⁽⁵⁾

A specific diversity focus will help hospices to engage with communities that they have had little or no impact on before, and help improve outcomes for these communities.

The business case

There is an excellent business case for any organisation to be committed to the principles of equality and diversity.

Some of the reasons are listed below.

Meeting need

- To provide services appropriate to the needs and aspirations of their communities, organisations must understand and take account of the diversity of those needs. Without this understanding, services may be seen as unnecessary and wasteful, or become marginalised.
- Organisations appear more accessible if the workforce, volunteers and governance structures reflect the communities being served. Organisations that do not reflect the communities they serve can fail in attracting members of those communities to use their services, or engage with them.

Staffing

- To recruit and retain talented trustees, staff and volunteers from all communities an organisation must be explicit in its commitment to diversity and then demonstrate that commitment in the way it operates.

- Staff and volunteers are more likely to be motivated and to perform well where they feel valued and respected.

Mitigating risk

- Organisations not meeting legislative requirements or good practice may not only face financial penalties as a result of costly awards following legal challenges, but as importantly, experience considerable damage to their reputation and to the morale of staff.

Statutory funding

- All public sector commissioning bodies, be they local authorities or clinical commissioning groups (CCGs), are required to have ‘due regard’ to equalities issues, including diversity and equality practice, in the organisations they commission. Hospices delivering services on behalf of such commissioners should be prepared to demonstrate their management of the equality and diversity agendas.

Community fundraising

- A growing number of hospices are discovering that focusing on equality and diversity helps improve fundraising within their local communities. For example, one hospice discovered that through community engagement a number of benefits were realised, including an upturn in income from the community.

“We have been taking forward community engagement, and the main benefit we are noticing at present is about raising the profile of our work (children’s palliative care and what hospices can do), and how the wider community can benefit from and begin to take ownership of the work and the organisation. Subsequently (and this is anecdotal), we have noticed an upturn in our community fundraising, which we believe is related to our increased presence within the community through community engagement.”⁽⁶⁾

Fundraising from other sources

- An organisation demonstrating good equality and diversity practice is also likely to be more attractive to funders that are driven by social values of inclusiveness.

Organisational performance

- There is strong evidence that organisations adopting good diversity practices can achieve productivity gains.

“Looking at equality and diversity can provide insights into the most fundamental processes within a hospice. In our case, it prompted us to re-examine our internal communication and undertake work to strengthen it.”⁽⁷⁾

Elsewhere evidence indicates that diverse boards perform better than non-diverse boards. A recent international study⁽⁸⁾ concluded that companies where women are strongly represented at board and top management level are also the companies that perform the best. The report says that it is not only representation at board level that makes the difference but a different way of doing business that arises from a more diverse board. At this time a comparable study in the voluntary sector has yet to be published, but the findings of the Help the Hospices Board Development Programme suggest that board diversity is a key differentiator in performance terms. Those boards that seek to be more diverse and representative of their community are consistently among those achieving outstanding performance.

Accountability

Equality and diversity are central to the regulatory frameworks of both the Care Quality Commission and the Charity Commission.

Care Quality Commission

In its role as regulator of health and social care services, the Care Quality Commission (CQC) considers equality and diversity issues as a key element of its assessment of providers' compliance with the essential standards of quality and safety.⁽⁹⁾ Equality and human rights issues are acknowledged as central to the quality and safety of services.

“Providers must consider equality, diversity and human rights in every aspect of their work.”⁽¹⁰⁾

“Equality and human rights issues are intrinsic to the quality and safety of services Where these issues are neglected, there may be real questions as to whether the overall standards are those that CQC would wish to endorse. They go to the heart of deciding whether CQC's essential standards have indeed been met.”⁽¹¹⁾

“The CQC views **equality** as being about removing barriers faced by people from different groups, so that they can achieve equal outcomes: barriers which may be caused by negative attitudes or by lack of access or support. In relation to care and support, it suggests that equality can be understood in three ways:

- equality of access to care and support;
- equality of outcomes from care and support; and
- the contribution care and support can make to people's equality of opportunity to participate and contribute fully in society.”⁽¹²⁾

The CQC has also stated a commitment to promoting human rights:

“We want an increasing proportion of people using services to report that they: were able to understand the choices available to them; had their privacy, dignity and independence respected; were involved in the design and delivery of services by providers and commissioners; experienced safe and appropriate care that met their needs and protected their rights; and that safeguarded them from abuse.”⁽¹³⁾

Examples of criteria considered by the CQC:⁽¹⁴⁾

- People who use the services experience ... care, treatment and support that meets their needs and protects their rights.
- There needs to be evidence that equality and diversity policies are being monitored.
- People who use the services and those acting on their behalf know that their comments and complaints will be listened to and acted upon without any risk of discrimination against them.
- People who use services have their needs met by the service because it is provided by the appropriate person.
- People who use services are protected from abuse or risk of abuse and have their rights upheld and respected.
- People who use services and people who work in or visit premises are in safe, accessible surroundings that promote wellbeing.
- Staff need to demonstrate awareness of human rights.
- Patients' views are obtained and used to inform the way the service is provided and delivered.
- There is evidence that the death rites of people from all faith groups are observed.
- Catering meets the needs of all service users.

The criteria listed below may look like familiar elements of high quality care. However if they are poorly delivered or absent, service users will not be confident to express their needs and wishes and carers will be unable to address equality and diversity concerns. In this way, high quality care and promoting equality are interlinked.

- People who use the services understand the care, treatment and support choices available to them.
- People who use services where possible give consent to treatment and the support they receive, and also that they know how to change previously agreed treatment, support, etc.
- People who use services and those acting on their behalf understand obligations (including financial where applicable) and responsibilities.
- People who use the services can be confident that personal records are fit for purpose, held securely and remain confidential.
- People receive safe, co-ordinated care, treatment and support where more than one provider is involved or where they are moved between services.

It is important to note that while compliance with the above criteria will go towards building sound equality and diversity practice, it will not guarantee that all aspects of hospices' activities are free of discrimination.

Charity Commission

The Charity Commission's regulatory framework recognises equality and diversity as an integral part of good governance and key to an organisation's effectiveness.

“An effective charity...recognises, promotes and values equality and diversity in beneficiaries, staff and volunteers, and in all aspects of its activity.”⁽¹⁵⁾

“We believe that the governance of charities will be improved where trustees are recruited from a wide range of backgrounds. This includes trustees from parts of the community which have traditionally not played a large part in charities, such as young people, people from minority and ethnic communities and people with disabilities.”⁽¹⁶⁾

Benefits to an organisation of a diverse trustee board include:

- a broader range of trustee skills, knowledge and experience
- greater assurance that a charity is fair and open in all its dealings, for example in the way it delivers services
- increased accountability for a charity's actions, and public confidence in its work.

The Good Governance⁽¹⁷⁾ code also recognises the role of diversity in organisations achieving the key principles of effective governance.

The legal case

All organisations should be able to demonstrate that they are meeting current legislative requirements.

Not addressing the equality and diversity agendas may have significant costs in terms of an organisation's reputation and morale, as well as financial costs involved with litigation.⁽¹⁸⁾

Legislation relevant to equality and diversity has existed in the UK for over three decades; its aim being to eliminate barriers to services, information and employment. The Equality Act 2010 is the latest legislation. The act brings together nine pieces of previous legislation and streamlines and harmonises law to protect employees and service users across nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

We explore the issue of legal compliance further in the next section of this document.

Good Governance Code Principle	Actions to achieve this will include:
Principle 3: An effective board will provide good governance and leadership by working effectively both as individuals and as a team.	Finding and recruiting new board members to meet the organisation's changing needs in relation to skills, experience and diversity.
Principle 4: An effective board will provide good governance and leadership by exercising effective control.	Recognising and maximising the value of diversity within the board as a means of identifying and managing risks, especially as a way of challenging institutional assumptions and thinking.
Principle 6: An effective board will provide good governance and leadership by being open and accountable.	Ensuring that the organisation upholds principles of equality and diversity in every sphere of activity, going beyond the legal minimum where appropriate.

3. More about legal compliance

Equality law affects everyone responsible for running an organisation or who might do something on its behalf, including trustees, staff and volunteers.

The Equality Act 2010

The majority of the Equality Act 2010 came into force on 1 October 2010. The two main purposes of the act were to harmonise discrimination law and to strengthen the framework of protection against direct and indirect discrimination, harassment and victimisation in services and public functions, premises, work, education, associations and transport. The act outlaws unlawful discrimination in relation to nine 'protected characteristics', the details of which are outlined below.

At the time of this document's publication, not all elements of the Equality Act 2010 are yet in force, and interpretation of elements of the act may be tested out in the courts in due course. So organisations requiring specific guidance on elements of the act should always seek legal advice. Nevertheless there are key principles behind the Equality Act and other remaining legislation that guide organisations in appropriate practices.

Below we set out the main elements in the Equality Act 2010, highlighting those which are of particular relevance to hospices.⁽¹⁹⁾

Protected characteristics

At the heart of the act is the concept of people with 'protected characteristics'. The act defines nine such characteristics or groups that are covered legally against discrimination. These are:

- age including specific ages and age groups
- disability including cancer, HIV, multiple sclerosis, and physical or mental impairment where the impairment has a substantial and long-term adverse effect on the ability to carry out day-to-day activities

- gender re-assignment where people are proposing to undergo, are undergoing or have undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex
- marriage and civil partnership
- pregnancy and maternity
- race including colour, nationality and ethnic or national origins
- religion or belief, including a lack of religion or belief, and where belief includes any religious or philosophical belief
- sex
- sexual orientation, meaning a person's sexual orientation towards persons of the same sex, persons of the opposite sex and persons of either sex.

What is included

The Equality Act outlaws direct and indirect discrimination, harassment and victimisation of people with relevant protected characteristics in relevant circumstances. It requires that reasonable adjustments be made for disabled people. The act applies to providers of services and employers, including NHS bodies and other healthcare providers.

Public sector equality duty

A public sector equality duty, section 149(1) of the act, applies to most public authorities (and bodies exercising public functions) requiring them in the exercise of their functions to have due regard for the need to:

- eliminate discrimination, harassment and victimisation and other conduct prohibited under the act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

For the purpose of the public sector equality duty, the protected characteristics are those listed above with the exception of 'marriage and civil partnership'.

Public authorities for the purpose of the public sector equality duty are listed in Schedule 19 of the act. Updated since first publication, these include the NHS commissioning board and all clinical commissioning groups, most special health authorities, NHS trusts and NHS foundation trusts. In addition, bodies that exercise public functions are subject to the public sector equality duty in the exercise of those functions (see section 149(2) of the act). The provision of commissioned NHS services is a 'public function' for the purpose of the Human Rights Act 1998, and a private provider of such services is therefore a hybrid public authority for those purposes.

The same analysis applies to the public sector equality duty under section 149 of the Equality Act 2010. Thus the Department of Health considers that the provision of commissioned NHS services would amount to the performance of functions of a public nature.

Public functions and charities

The application of the general equality duty to 'other organisations that exercise public functions' will include private bodies or voluntary organisations that carry out public functions on behalf of a public authority. The Equality Act defines a public function as a function of a public nature for the purposes of the Human Rights Act 1998. An example of this would be a private company running a prison on behalf of the government. The company would, however, only be covered by the general equality duty with regard to its public functions, but not for other work, like providing security services for a supermarket.

Whether or not an organisation is exercising a function of a public nature depends on a number of factors. These include (among others) whether it is publicly funded, if it is exercising powers assigned to it via legislation, or if it is taking the place of central or local government. Other factors include if it is providing a public service, if its structures and work are closely linked with the delegating state body, and if there is a close relationship between the private body and any public authority. Whether a particular function comes within this definition is ultimately a matter for the courts to decide.

It is therefore likely that, where hospices provide services commissioned by the NHS or other public authority, they become subject to the general public sector equality duty. A range of forms, agreements and arrangements exist between hospices and public sector commissioning bodies; so if an organisation is in doubt it may find it useful to seek legal advice.

(Adapted from the NHS (2011): The Equality Delivery System⁽²⁰⁾ and the Equality and Human Rights Commission: The essential guide to the public sector equality duty: England (and non-devolved public authorities in Scotland and Wales), Revised (third) edition, November 2012.⁽²¹⁾

The equality duty means that organisations have to go beyond ensuring services are delivered in a non-discriminatory way. So when considering advancing equality a hospice may want to consider how to:

- pursue equity in relation to who uses hospice services
- identify and reduce barriers to services⁽²²⁾
- encourage people with protected characteristics to participate in the hospice where their participation is low.

When addressing the criteria of fostering good relations hospices may want to consider how they can promote understanding and reduce prejudice within the local community.

Hospices and other health and social care providers will need to review their commitments to promote equality and their related policies and procedures to ensure that all of the protected characteristics are considered.

Action points

- Review and update your corporate policies to reflect the changes to the Equality Act 2010.
 - Consider whether your provision of services could discriminate on the grounds of any of the nine protected characteristics and update your policies accordingly.
 - Review and update your recruitment and promotion policy and related documents.
 - Consider whether you have appropriate policies in place for reporting third party harassment, especially from clients or customers, and consider whether it would be appropriate to take steps to alert clients and customers that staff should not be subject to discriminatory treatment.
- Update your staff, trustees and volunteers on the changes and their implications.

(Adapted from Chartered Institute of Housing (2011) Delivering the Equality Act 2010)

A more detailed good practice checklist is included at Appendix D

The Human Rights Act

Equality and diversity sits within a wider context of individual human rights in society. The Human Rights Act 1998 came into force in October 2000, bringing into effect in UK law most of the rights contained in the European Convention on Human Rights. As a result the human rights set out in the European Convention can now be claimed within the complaints and legal systems here in the UK.

The rights and freedoms set out in the act include:

- the right to freedom
- the right to respect for private and family life
- freedom of thought, conscience and religion, and freedom to express your beliefs
- freedom of expression
- the right not to be discriminated against in respect of these rights and freedoms.

The Human Rights Act makes it unlawful for public authorities, including private bodies that carry out public functions, to act in a manner that is incompatible with the rights and freedoms that are guaranteed by the European Convention on Human Rights.

The Charity Commission has suggested that, as a result of providing services on behalf of public bodies, some voluntary organisations and charities – such as hospices – are also likely to fall within the remit of the Human Rights Act in respect of those services. However ‘private acts’ carried out by charities fall outside the act.

Charity Commission guidance – Public functions and private acts

If everything that a charity does can be regarded as public functions, then it will all have to be done in a way that is compatible with human rights. More commonly though,

charities falling within the definition of a public authority will have some public and some private functions. Private acts are not covered by the Human Rights Act.

For example, where a charity is raising funds or recruiting staff it is probably acting privately. The point is whether the action is one which is carrying out a public function. In the case of a registered care home the delivery of the care plan is likely to be a public function; the recruitment of the staff is not. In the case of an independent school, decisions about who should supply it with stationery or equipment will be private acts; decisions about the way in which it will provide educational services in the school will be public functions.⁽²³⁾

The Human Rights Act involves not only obligations but also rights for charities.

Human rights benefits for charities

The implementation of the Human Rights Act will bring new responsibilities for some charities, but it will also bring opportunities too. Charities themselves will enjoy the Convention rights and may be able to take advantage of them to challenge the activities of others where the rights of their organisation are being infringed. Charities can also use it as an opportunity to build the principles of human rights into their policies and procedures to help develop and implement good practice and improve attitudes and behaviour towards people that they help and work with.⁽²⁴⁾

More in-depth information is available from the Equality and Human Rights Commission⁽²⁵⁾ and the Charity Commission.⁽²⁶⁾

4. Learning from others

Hospices can learn from the approaches to equality and diversity taken in other organisations and in other sectors, while the Widening Access programme has provided examples of good practice from within the hospice sector.

Adapt rather than adopt

It is important to remember that while other models can provide a useful starting point for an organisation considering how to move forward, organisations do need to ensure the approaches they implement are appropriate to their own context and circumstances.

Voluntary and community sector

Bodies such as ACEVO and NCVO have published resources to assist voluntary and community sector organisations in responding to the equality and diversity agenda.⁽²⁷⁾ These include examples of good practice and case studies from third sector organisations.⁽²⁸⁾

Statutory bodies

Both the NHS and local authorities can draw on two different non-mandatory structured processes designed to help them meet their obligations under equality and diversity legislation.

The requirements in relation to legislation and regulation on charities such as hospices will differ from such statutory bodies. Nevertheless the models used can provide useful information and learning for an organisation developing approaches tailored to its own circumstances.

Local authorities

Local authorities can draw on the work of the Local Government Improvement and Development organisation and its Equality Framework for Local Government (EFLG).⁽²⁹⁾

The EFLG supports and complements the two principles of equality – equal treatment and equal opportunity. It comprises five performance areas:

- knowing your communities
- leadership, partnership and organisational commitment
- community engagement and satisfaction
- responsive services and customer care
- a skilled and committed workforce.

A self-assessment tool is available to assist organisations to identify their level of achievement, namely whether they are:

- developing
- achieving
- excellent.

NHS

NHS organisations can draw on the Equality Delivery System (EDS) developed by the NHS, sponsored by the Equality and Diversity Council (EDC) and supported by the Department of Health.⁽³⁰⁾

The EDS is “designed to support NHS commissioners and providers to deliver better outcomes for patients and communities and better working environments for staff, which are personal, fair and diverse”.⁽³¹⁾

Central to the EDS approach are four goals:

- better health outcomes for all
- improved patient access and experience
- empowered, engaged and included staff
- inclusive leadership at all levels.

The EDS tool follows a process which involves seeking local input about NHS providers' performance and leads to the services being graded as one of the following: excelling, achieving, developing or undeveloped.

The organisation then creates appropriate equality objectives, which are incorporated into organisation business plans. The progress of such plans are reviewed, graded and revised on an annual basis.

Hospices can contribute and benefit from this initiative in three ways:

- They can be part of the consultation process and offer feedback to their local NHS providers.
- Hospices can draw on the work of others engaged in the EDS scheme⁽³²⁾ to inform their own work.
- Some hospices may wish to explore how the EDS process could benefit their improvement programmes. Note: the EDS scheme itself is open only to NHS bodies. However, the framework and documentation around the scheme are available to view and may be useful to form the basis of hospices' own approaches.⁽³³⁾

In addition NHS Employers represents the views of NHS organisations on issues including equality and diversity. It also offers a broad range of advice, guidance and practical support for NHS trusts. Tools and information are freely available and may provide a useful starting point or other organisations.⁽³⁴⁾

Good practice in hospices

Together for Short Lives has developed a toolkit to help services to address the challenges and barriers faced in delivering services to children, young people and families from diverse communities. The approach is one which will also be useful for other voluntary and community sector organisations.⁽³⁵⁾

Many hospices have made significant progress in relation to equality and diversity since the 2006 report, Widening access to hospice care, was published.

5. Making it happen

Embedding equality and diversity into day-to-day operations and making them a central part of organisational strategies is integral to ensuring hospices are delivering the best services for their local communities. To achieve this requires engagement across the organisation. This section sets out some tools to assist organisations, and highlights key steps hospices can take to ensure equality and diversity is integral to their work.

Taking stock – the equality and diversity checklist⁽³⁶⁾

A useful starting point for any organisation developing a plan of action is to assess its current position. The following checklist is designed to support hospices as a first step towards assessing organisational competence. It may be particularly helpful where a hospice wants to develop its equality and diversity practice but doesn't know where to start.

The questions are deliberately designed to apply to a wide range of hospices. They are intended to help engage with key stakeholders such as trustees, patients, carers and staff to reflect upon their experiences of the hospice and how it might be further improved.

Strategy

- Is the board currently reflective of the communities it serves?
- What steps have been taken to ensure that a diverse range of people are recruited to the board and all levels of the hospice?
- How does the board keep up to date with developments in equality and diversity both locally and nationally?
- Has the board and senior management set clear priorities for equality and diversity?
- Have equality and diversity performance measures been established and are they regularly reviewed by the board (at least once every six months)?

- Which senior manager(s) is accountable for the management of equality and diversity?
- Have steps been taken to ensure organisational strategic objectives reflect equality and diversity expectations?

Planning

- How is service user data collected, analysed and then used to tackle service inequalities?
- Does your hospice have equality and diversity action plan(s)?
- How are they recorded and how are they regularly monitored?
- When is the progress of these plan(s) reported to the board?
- What is the connection between these plan(s) and the Care Quality Commission audits?
- How do you budget for this equality and diversity activity?

Policy

- How is the hospice's commitment to equality and diversity communicated to service users and key stakeholders?
- Does your policy cover all the protected characteristics stated in the 2010 Equality Act?
- How effectively is the equality and diversity policy communicated to the staff and service users?
- Is the complaints procedure regarding discrimination made widely available?

Information about equality and diversity in the local community

- How do you gather information on the social and health needs and experience of your local communities?
- Are you regularly engaging with a wide range of stakeholders and expertise to further improve the hospice's equality and diversity practices?

Training and education

- How frequently are the equality and diversity training needs of the hospice's staff and volunteers undertaken?
- Do you have training plans to ensure all staff and volunteers understand their responsibilities under the Equality Act and Human Rights Act?
- How is equality and diversity addressed in induction?
- How is the access to and take up of education and training monitored?
- Do you undertake positive action to increase under-represented groups at all levels of the hospice?

Communication

- How does the hospice ensure that information about its services are available to all potential users regardless of their preferred form of communication (eg languages other than English, sign language, etc)?
- Does the hospice promote clear service eligibility criteria to the public and all health and social care professionals?
- How does the hospice communicate its commitment to equality and diversity to all service users, voluntary and community sectors?
- Does the hospice have up-to-date information on local and national support groups for different user groups?
- Does the hospice promote information about such groups and resources with service users?
- When there are consultations with users and carers about hospice services, does the hospice monitor the diversity of the group?
- Are services made available to ensure people who express themselves in ways other than spoken English can participate, ie people who do not speak English, people with hearing difficulties, people with learning disabilities?

Monitoring

- Do you regularly collect and use monitoring data on your service users (particularly data relating to the protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation)?
- Is information coded so that the hospice can identify needs across more than one group with a protected characteristic, eg disabled users and elderly female users with diseases other than cancer?
- Is data/information effectively shared among relevant hospice staff to minimise asking users repetitive monitoring questions?
- Do staff get training and ongoing supervision about how to elicit sensitive data from users?
- Are there regular checks to ensure the staff/volunteers' profile of the hospice reflects that of the local community?
- Do you monitor promotion to ensure it is equitable?
- Is any aspect of equality and diversity discussed during staff appraisals?
- What methods are available for staff to feedback on equality and diversity?

Improving equality and diversity performance

Managing any form of organisational change can be challenging. Developing an organisation that is positive and proactive towards equality and diversity must be strategically driven and it is crucial to have clear strategies in place.

Equality and diversity is not a one-off project. Ultimately, it should become an integral part of the way the organisation operates when designing and delivering services. This means that every member of staff in every department of the organisation should consider equality and diversity to be

a part of their day job. Key elements of that process include ensuring appropriate processes, structures and plans are in place.

This may be a significant change in culture and it may take some time to achieve.⁽³⁷⁾

Setting the strategy and objectives

Under the specific duties relating to the public sector equality duty, public authorities are required to set one or more equality objectives. These objectives can be set according to the priority issues for that organisation and where need is identified.

While hospices may not be affected by this requirement of the public sector equality duty, it would be good practice to create equality objectives.⁽³⁸⁾

Good practice when establishing objectives:⁽³⁹⁾

- Objectives should be SMART (specific, measurable, achievable realistic and time bound).
- Take a proportionate approach to setting equality objectives – the number of objectives set, and their level of ambition, should depend on the size and role of the organisation.
- Equality objectives should be seen as part of the business plan and as supporting delivery of it: desired outcomes are more likely when your objectives are seen as an integral part of business performance.
- Objectives should be based on an understanding of the needs of employees and service users, and evidence of the impact of your employment, service, policy and other functions on people with the protected characteristics.
- Engaging with staff, volunteers, service users, members of the public, and other local stakeholders such as voluntary organisations, can help to identify priority areas for setting objectives.

- Objectives which are ambitious and which focus on the biggest equality challenges an organisation faces, will have the greatest impact in furthering the aims of improving equality and diversity performance.
- Regularly reviewing progress against objectives will help identify if more effort or resources are required to achieve them, or if they need revision. Reporting on progress as part of standard reporting to senior management and board helps embed them into organisational business processes.

In practice, organisations such as local councils that are seeking to comply with the Equality Act specific duties are creating objectives that vary from the general to the specific.

Example 1:

Cornwall Council Feb 2012

“Increase and improve the standard and collection of equalities monitoring data amongst public and voluntary sector organisations”.

Example 2:

Wandsworth Council, 2012–2016

Equality Objective	Measure and Baseline
‘Ensure that the profile of senior officers in the Council reflects the Borough population.’	Top 5% of earners who are female Top 5% of earners from BME communities Top 5% of earners that have a disability

Hospices may find it useful to consider the objectives of the public authorities in their localities, to help inform their own. There may also be opportunities to engage with local authorities around scoping and implementing the objectives identified for their local areas. Such engagement can also help build and maintain relationships between councils and hospices.

Establishing the right structures and processes

Leadership

Leadership is essential in order to establish an overall sense of direction and destination for the organisation in relation to equality and diversity, accompanied by a plan about how to get there. Strategic accountability rests with the Board, chief executive and senior management team, and clear messages promoting equality and diversity are crucial to drive the agenda. However, to develop and maintain an organisational culture that is positive about equality and diversity, strategic direction needs to be accompanied by commitment and action throughout the organisation.

Delivering equality in service delivery is a role for everyone, at all levels within an organisation.

Achieving engagement across an organisation can be assisted significantly by actively involving staff in the promotion of equality and diversity, developing policies, practices, and monitoring the impact of those policies.

Two ways in which this can be done are by developing 'diversity champion' roles across the organisation and establishing a working group on the issue.

Acting in a voluntary capacity, diversity champions disseminate good practice and encourage the promotion of equalities. Such roles are in place in many bodies across the health and social care

sectors.⁽⁴⁰⁾ Working groups have two practical benefits. First, they demonstrate that the responsibility for equality and diversity is hospice-wide and not just down to one individual. Secondly, group working helps share the work, challenge individual perceptions and share experience and knowledge.⁽⁴¹⁾

Policy

Strong and meaningful equality and diversity policies need to be up to date with national legislation and standards as well as tailored to the organisation's resources and the challenges it faces. Policies should reflect equality and diversity considerations in relation to an organisation's responsibilities as a service provider, and as an employer.

To ensure that policies and practice respond to the needs of the new Equality Act organisations are recommended to:

1. Review your existing equality policy and action plan – or write a new policy if you don't have one.
2. Monitor how the policy is working in practice – this is the critical stage in delivering equality in the workplace.
3. Take action, where it is needed, to address inequality or promote diversity.⁽⁴²⁾

The process of developing the policy should help clarify the main issues and priorities for an organisation. The policy is a basis for making and monitoring changes, and will send a clear message to everyone involved with an organisation about its approach to equality.

Example: Checklist for developing an equality and diversity policy

Content should include:

Policy and mission statement

- Link into overall mission/vision ☐
- Key statement of principles ☐
- Stand-alone mission statement ☐
- Overarching statement of non-discrimination ☐

Strategy and action plan

- How policy was developed and how it will be implemented ☐

Service delivery

- a) Providing appropriate services ☐
- b) Using accessible venues ☐
- c) Publicising your services ☐
- d) Producing accessible written information ☐
- e) User involvement ☐
- f) Monitoring ☐
- g) Challenging abusive behaviour from clients ☐

Employment

- h) Recruitment and selection ☐
- i) Making reasonable adjustments ☐
- j) Terms and conditions ☐
- k) Developing your staff ☐
- l) Volunteers ☐

- Plans for publicising and using your policy ☐

From AdviceUK (2010) A guide to developing equality and diversity within advice organisations

Communication

To be successful the hospice should communicate its commitment to equality and diversity both within and outside the organisation. Promoting the organisation's policy is key to implementing it effectively and will help to demonstrate to staff, trustees, volunteers, service users and external stakeholders the organisation's commitment to the principles set out in the policy.

It is recommended that hospices seek to engage with all relevant stakeholders on an ongoing basis as the environment evolves and new challenges develop. When undertaking equality and diversity initiatives, keeping all relevant parties informed of expected outcomes and rate of progress helps to build trust and engagement with those stakeholders.

Training

Staff at all levels should be able to demonstrate a clear understanding of equality and diversity, how it applies to their work and their contribution to putting it into practice.

Training on equality and diversity for staff, trustees and volunteers will help promote understanding about the principles, overcome any working cultures that act as barriers, and help staff to positively identify and address the diverse needs of service users.

Wherever possible the hospice should follow the full training cycle: undertaking training needs analysis, creating training aims and objectives, delivering training and evaluating its impact. To be memorable, training needs to be fresh and dynamic. To be effective, managers need to create opportunities for staff and volunteers to transfer their learning from the 'classroom' to their roles, and then also receive feedback.

Styles and approach to training may differ according to an organisation's circumstances. It might choose to include training on equality and diversity:

- as part of an induction process
- during regular team meetings
- by asking staff, trustees and volunteers to attend specific whole- or half-day courses (even if they say they don't need or want to go on them)
- through an online training package
- through a combination of the above.

Whatever the format chosen, organisations should also ensure that people are kept up to date with any changes (for example as a result of changing policies) and that new staff, trustees and volunteers receive similar training and know what is expected of them.

Staff, trustees and volunteers should be aware of:

- the law covering all the protected characteristics and what behaviour is and is not acceptable
- the risk of ignoring or seeming to approve inappropriate behaviour and personal liability
- how discrimination can affect the way an employer functions and the impact that generalisations, stereotypes, bias, and inappropriate language in day-to-day operations can have on people's chances of obtaining work, promotion, recognition and respect
- monitoring
- the organisation's equality policy, if one exists, and why it has been introduced and how it will be put into practice.

(Adapted from the Equality and Human Rights Commission – Equality training)

Monitoring progress

Unless an initiative results in change, the process can justifiably be labelled a paper exercise. If a hospice's equality and diversity policy and strategy is not being taken forward, then it is likely that opportunities are being missed and risks are increasing.

Monitoring and review of equality and diversity work on a regular basis focuses the attention on what works and what doesn't work, ie the barriers to progress and the opportunities to develop work further.

Addressing equality and diversity within service development plans

Proposed changes in policy, practice or models of care will benefit from early investigation into the equality and diversity implications. The following model is recommended:

- I. setting the organisational equality and diversity aims and objectives
- II. collecting data
- III. analysing the data
- IV. determining action (if any).

I. Setting the organisational equality and diversity aims and objectives

When looking to establish aims and objectives in relation to equality and diversity, hospices may find the following questions useful:

- What does the hospice want to achieve?
- What will the achievement be like when completed?
- Why are we doing this? Is it the moral case, legislation, performance, finance, etc?
- Who will lead? Who is responsible?
- How will it be achieved?
- When does it need to be completed?
- What is the cost? (the sum of financial and non-financial inputs)
- What is the cost (the sum of financial and non-financial inputs)?

II. Collecting data

The collection and analysis of equality data is the cornerstone of effective planning and delivery. An organisation needs such information if it is to understand the effect of its policies, practices and models of care.

“Clear, accurate data is vital to monitor who gets services and who does not and who is delivering them. A sustained, shared and well-communicated emphasis on this can yield good results. For example, over the last three years concentrating on the make up of our volunteer workforce and on mechanisms to encourage diversity means that we now have 37% under the age of 48, 40% men and 28% from black and minority ethnic communities”.⁽⁴³⁾

The process of collecting quantitative and qualitative data may be vital but can pose a number of challenges. For example, there is evidence that some hospices struggle with service user involvement and have difficulties eliciting criticism. Staff can also be reluctant or embarrassed to ask for information and may lack confidence dealing with questions or challenges from the people they are requesting the information from.

It is important to collect information within an environment of trust for both staff and service users. Be clear about what you are doing and why, and how data will be used and stored. Specifically:

- collect only the information that you can use effectively
- explain why information is being collected
- be clear what will happen to the information – who will see it and how confidentiality will be ensured

- reassure people providing the information that it will not be used to discriminate against them and that you will gather, keep and use the information in a way that ensures this
- ensure staff collecting information know what they are expected to do, and why
- ensure you comply with the requirements of the Data Protection Act 1998 in collecting, storing and using monitoring information.⁽⁴⁴⁾

(Adapted from Equality and diversity UK: Embedding equality into everyday practice)

Help and guidance is available around explaining this as clearly as possible, and the appropriate questions to use.

Stonewall have published an information sheet for people using public services. It explains the purpose of monitoring information and is called What's it got to do with you?⁽⁴⁵⁾

Best practice guidance on monitoring equality and diversity in employment⁽⁴⁶⁾ is published by the civil service and provides guidance on how to ask these, often sensitive, questions.

III. Analysing the data

Collecting equality information is not an end in itself – it should be analysed, interpreted and used to feed into planning and developing policy or services. Equality considerations can therefore be embedded into the process of shaping policies and practices. Introducing such information at the earliest stages of development will help organisations to assess the impact on equality and diversity.

An equality analysis is a way of considering the effect of current or proposed policies or services on the different groups protected from discrimination by the Equality Act. Such analysis assists organisations to:

- consider if there are any unintended consequences for some groups
- consider if the policy will be fully effective for all target groups
- identify practical steps to tackle any negative effects or discrimination
- advance equality and foster good relations.

The Equality Act requires public authorities to undertake equality analyses as part of their public sector equality duties. Charities such as hospices are not subject to that requirement. However, undertaking analyses, particularly where significant corporate policies are being reviewed, will help ensure that organisations will be aware of the impact of their policies on service users from different communities, and thereby avoid discrimination.

Possible examples of the adverse impact of a policy or policy change:⁽⁴⁷⁾

- access to services is reduced or denied to certain groups, in comparison with others
- eligibility criteria appear to disadvantage certain groups
- a group faces increased difficulty or indignity as a result of a policy
- a policy reduces benefits disproportionately for one group.

There is no set method for undertaking an equality analysis; the approach adopted should be proportionate to the scale of the policy being considered and fit the needs of the organisation. An example is set out opposite.

When conducting an equality analysis, the following approach can be taken:⁽⁴⁸⁾

Stage 1: evaluating the need to conduct an equality analysis: impact and risk

- Is what you are working on sufficiently important for the organisation and for service users that an equality analysis needs to be conducted? If you are working on a major corporate project, or something that you know will be strategically important for the organisation, a default position should be to assume that an equality analysis will be required.
- Equality and diversity considerations apply more to some activities than others, but if you are looking at any form of service delivery, equality issues should be considered.
- How extensive is the anticipated impact of what you are working on likely to be on your current and prospective customers?
- Engage with diverse service users and community advocates if you lack knowledge or capacity to do this yourself.

Stage 2: deciding to conduct an equality analysis

- There is no fixed way of conducting an equality analysis and how you go about it will depend upon the nature of your particular project.
- Make an initial informal assessment.
- Collect additional data if necessary, eg census data, official information held by government agencies or research conducted by other organisations.

- Information generated or collected outside [the hospice sector] can be used to supplement what you already know about specific needs of diverse service users. For example, the Office for National Statistics (ONS) contains a lot of data on access to services, community wellbeing, health and care, indices of deprivation, income and lifestyles, population and migration, work deprivation.
- If your project requires additional information and research, you will need to decide on the appropriate form of data you need. This might be quantitative (eg through a survey), qualitative (eg through a focus group or liaison with diverse community advocates) or both.

Stage 3: evaluating the outcome

There are three elements to this:

- Data may suggest that your project or proposal will have no impact on different service users in their diversity. If so, you can call an end to your assessment.
- Data shows that there will be a positive impact on diverse service users.
- Your assessment might confirm that your project or proposal will indeed have the adverse impact that you were concerned about. In this case you must consider what action, if any, you should take to mitigate the adverse impact.

Stage 4: acting, reporting and transparency

- Take appropriate action, remedial action or decide not to act on the basis of your findings in stage 3.
- Be transparent with your findings with management, governing body and current and prospective service users.

Adapted from Chartered Institute of Housing (2011); Delivering the Equality Act 2010

There are a range of models and templates available to assist organisations in carrying out equality analyses. The advice again is to select a model that is appropriate for your organisation, and the situation you are looking at – aiming to keep the process as simple as possible. Simplicity will help make the process easier to complete and to take the appropriate action. However, to ensure the process is robust and credible Equality and Human Rights Commission (EHRC) guidance emphasises the importance of a formal, structured, documented process.

Example models

The **EHRC** has produced guidance for public bodies on conducting an equality analysis. This guide offers a practical explanation of what can be done to ensure authorities are meeting the equality duty contained in the Equality Act 2010.

The **Department for Education** has produced a workbook⁽⁴⁹⁾ for public authorities undertaking equality analyses containing a template designed to make the process as straightforward as possible and based around two key questions:

Could this policy, or does this policy, have a negative impact on one or more of the dimensions of equality – could it increase inequalities that already exist? If so, how can we change or modify it, or minimise its impact, or justify it? (Direct discrimination is illegal and cannot be justified. And Government Equalities Office advice notes that financial constraints alone are unlikely to be sufficient justification for indirect discrimination.)

Could this policy, or does this policy, have a positive impact on equality, by reducing and removing inequalities and barriers that already exist? If so, how can we maximise this potential?

Appendix A is an equality analysis pro-forma which can help with this process.

Equality analysis is most effective when it is integrated into day-to-day policy-making, business planning and other governance and corporate decision-making arrangements. It would therefore be sensible for the person undertaking the equality analysis to work closely with the policy maker; in some instances it would be sensible for the policy maker to also carry out the analysis.

IV. Determining the action

The results of an equality analysis should assist in deciding on any action that needs to be taken to address unintended consequences of the current policy or service or proposed change(s).

If action is deemed appropriate then plans are required. An effective action plan has the following features:

- aims and objectives – depending on the size of the objective there may also be milestones which enable the measurement of progress
- timescales, which facilitate monitoring
- people responsible – to ensure ownership and accountability for actions
- resources – a ring-fenced budget and protected staff time are recommended.

Actions may range from identifying and analysing equality data, engaging or consulting protected groups, implementing mitigations etc. Relevant actions may require dovetailing with current team/service plans.

For an example of an action plan see Appendix A

Sustaining change

Most hospices will have already been taking steps to address the equality and diversity agendas. The question for many will be how to make such changes sustainable? Here are some points⁽⁵⁰⁾ for consideration at local level.

Establishing a programme of change which works at a local level

By far the most important question for individual hospices to consider is how local change is best

facilitated. This document is intended to be used flexibly so as to complement a particular hospice's approach to change. It is crucial that any planned change harnesses the strengths of the hospice and focuses on the challenges unique to that organisation.

Proactive mitigation of local risks to progress

Identifying and taking mitigating action where possible to address risks is key to the success of any project, programme or change initiative. Risks that may affect the progress of an equality and diversity initiative are listed in the table below.

Risk	Possible mitigating action
An unenthused staff team	This may be best addressed by re-launching the equality and diversity initiative with new goals and addressing the 'what's in it for me?' question. If original pressures are no longer so keenly felt, take steps to make the initiative more urgent and identify ways of reinforcing its importance.
Loss of momentum in driving change	Check who is responsible for leading the initiative and also reconfirm who is responsible for the action plans. Review the supply of information, ensure updates are accessible in a variety of media, and have information on latest achievements. To underline the sense of progress make sure that any recently established initiatives are not still being described as 'new'. If new members of staff or volunteers are not on board with the initiative review the effectiveness of the induction process. Ensure that the initiative is included in any supervision activities.
Resistant stakeholders	Identify the reasons for resistance and seek to engage and influence stakeholders, involving other stakeholders where appropriate. If all attempts at overcoming resistance have been unsuccessful, seek to minimise the influence of any stakeholders who remain resistant.
Loss of staff who have been important change agents	In order to address the risk of key staff leaving the initiative there need to be both short- and long-term strategies. <ul style="list-style-type: none"> ■ Short term: If key staff are in the process of leaving then ensure that their responsibilities are transferred to other staff even if this is a 'watching brief'. Ensure their knowledge is captured in learning materials and create opportunities for the transfer of experience and skills through talks, workshops, etc. ■ Long term: Examine how career development and retention policies can be used to retain key staff.

Identifying and celebrating success

How do we know when we have succeeded?

It has been suggested⁽⁵¹⁾ that an organisation will have succeeded in integrating equality and diversity thinking when it crops up as naturally and as frequently as thinking about finance. However, this vision captures only part of the picture.

“We are becoming more open. Instead of thinking about whether our palliative care service is right for a person, we are now asking how can we help this person? We haven’t cracked it yet though, the hospice is on a journey.”⁽⁵²⁾

The former chief executive, summing up the overall impact of the equality and diversity work on the hospice’s performance.⁽⁵³⁾

While equality and diversity processes can be learnt and become habitual, and there is much good practice to be found already in the sector, more remains to be done. Even for those hospices leading the way in relation to equality and diversity the ‘journey’ will continue as the needs of service users and the environment (both technical and socio/economic) in which we all operate changes and evolves.

Appendix A: Equality analysis form

The following template has been simplified from an earlier equality impact form. There are many such templates available. Ultimately the test of any template is down to the ease of completion and its value in supporting change. Therefore please amend as necessary to meet your requirements.

This form is used for the initial analysis. It can determine whether further steps are required. If they are then the full equality analysis sheet should be used.

Name: Please name what is being assessed.

Is it a function, policy, practice, process or strategy? (Please underline the appropriate answer.)

1. What are the key aim(s)/goal(s) of the function, policy, practice, process or strategy being assessed?
2. **Impact and data.** Do you have any current informal or formal evidence that leads you to believe that any of the groups in the table below, could be differentially impacted, in any way, by the undertaking described by this Equality analysis (EA)? Please provide summary of the supporting qualitative or quantitative evidence in each box that is ticked.

Client group	Yes – There will be negative impact.	Yes – There will be positive impact.	No impact.
Age			
Sex			
Gender reassignment			
Disabled people with: Learning difficulties or cognitive impairment Mental health needs Sensory impairment Physical disability			
Religious, spiritual beliefs			
Sexual orientation			
Pregnancy and maternity			
Human rights			

3. Please detail how users and stakeholders were involved with the above over the last year.

4. Conclusions

EA Lead

1. No change required ☐

Signature.....Date

2. Adjustments to be made but no need for full EA ☐

Manager

3. A full EA is required ☐

Signature.....Date

Full equality analysis

Please refer to the first form. With reference to the protected characteristics you are checking against, what evidence do you have about the possible impact of the service/policy process you are assessing? (Consider all types of data available to you.)

Data/information	When and how was it collected?	Where is it from?	What does it tell you about the key groups with protected characteristics?	What gaps are there?
Customer feedback and complaints				
Consultation with the community and users				
Take up and usage by key groups				
Comparative information where there is no local data				
Census, national or local stats				
Access audits				
Workforce profile of those delivering the process				
Monitoring and scrutiny outcomes				
National, regional or local issues				

Equality analysis action planning form

Your manager must sign off on your finalised EA and any associated action plan

Issue/ objective (To redress differential impact)	Specific actions required (List the necessary actions to deal with the issue identified)	Timescale for completion (Be realistic about timescales)	Lead person	Milestones (State concrete outcomes achieved en route)	Red, amber green (RAG) rating
1.	a. b. c.				
2.	a. b. c.				
3.	a. b. c.				
4.	a. b. c.				
5.	a. b. c.				
Add more rows if necessary					

EA Lead

Signature.....Date

Manager

Signature.....Date

Appendix B: Equality legislation

The Equality Act 2010

The Equality Act 2010 is intended to promote fairness and equality of opportunity, tackle disadvantage and discrimination and strengthen the law on equality and diversity in the public sector.

The act simplifies and brings into one act existing discrimination law including:

- Equal Pay Act 1970
- Sex Discrimination Act 1975
- Race Relations Act 1976
- Disability Discrimination Act 1995
- Equality Act 2006, part 2
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Age) Regulations 2006
- Equality Act (Sexual Orientation) Regulations 2007.

Nevertheless, in addition to the Equality Act 2010, elements of the following pieces of legislation remain relevant:

- Employment Act 2002
- Race Relations (Amendment) Act 2000
- Sex Discrimination Act (SDA) 99
- Human Rights Act 1998
- European Directives on Age, Religion and Sexual Orientation.

Who has responsibilities?

The act applies to all employers and service providers.

- All employers and service providers have a responsibility under the law to treat their employees and service users fairly.

- Service providers are bodies that provide goods, facilities or services to the general public or section of it, regardless of whether these are free or paid for.
- If you are an employer, the law generally still applies to you even if your workers are temporary, do not have written contracts of employment or are recruited to other positions such as trainees, apprentices or business partners.

For example, it will cover community centres, information and advice agencies, charity shops, internet-based services, residential care homes and day care centres. It applies to all services, whether or not a charge is made for them.

The act also places additional obligations on the public sector:

- A unified public sector duty intended to promote equality in public policy and decision-making – extending existing similar provisions to the protected characteristics of sexual orientation, age and religion or belief.
- A duty to report on equality issues in the workplace including gender, pay, ethnic and disability minority employment rates.
- Use of public procurement to promote equality.

Liability

All members of staff, volunteers and contractors (described as ‘agents’ in the Equality Act 2010) can be liable for illegal discrimination and harassment.

There are two levels of liability:

- An individual liability for acts of illegal discrimination and/or harassment.
- An employers’ liability, if the employer can be shown not to have taken reasonable steps to prevent discrimination and harassment.⁽⁵⁴⁾

Who is protected?

Whether at work as an employee or in using a service, everyone has the right to be treated fairly at work or when using services.

The act protects people from discrimination on the basis of certain characteristics. These are known as protected characteristics and they vary slightly according to whether a person is at work or using a service.

All of the protected characteristics were covered to varying degrees by previous legislation.

What the law protects against

The Equality Act 2010 prohibits the following types of discriminatory behaviour: direct discrimination; indirect discrimination; discrimination arising from disability; harassment and victimisation.

Direct discrimination

- Treating a person worse than someone else because of a protected characteristic.

Direct discrimination can also take place because of a protected characteristic that a person does not personally have. For example, a person can be discriminated against because of their association with a person who has a protected characteristic, or because they are wrongly perceived to have one, or are treated as if they do.

Discrimination through perception

- Treating someone less favourably because they are thought to have a particular protected characteristic when in fact they do not. For example, where people may be discriminated against because they are thought to be transsexual or gay, even if they do not have these protected characteristics. Direct discrimination could also occur when someone is treated less favourably because of a protected characteristic even if it is known that they do not have that protected characteristic. For example, homophobic abuse of someone even though the perpetrator is aware that the person is not gay.

There are nine protected characteristics relating to employees.	There are eight protected characteristics relating to people who use services.
<ul style="list-style-type: none">■ disability■ gender reassignment■ marriage or civil partnership■ pregnancy and maternity■ race – this includes ethnic or national origins, colour and nationality■ religion or belief■ sexual orientation■ sex (gender)■ age	<ul style="list-style-type: none">■ disability■ gender reassignment■ pregnancy and maternity■ race – this includes ethnic or national origins, colour and nationality■ religion or belief■ sexual orientation■ sex (gender)■ age

Discrimination through association

- Discriminating against someone because they are linked or associated with a protected characteristic. For example, where someone is treated less favourably than others because of a protected characteristic of a friend, spouse, partner, parent or another person with whom they are associated.

Indirect discrimination

- Putting in place a rule or way of doing things that has a worse impact on someone with a protected characteristic than someone without one, when this cannot be objectively justified.

Discrimination arising from disability

- Treating a disabled person unfavourably because of something connected with their disability when this cannot be justified.
- Failing to make reasonable adjustments for disabled people.
- Discrimination arising from disability is different from direct discrimination. Direct discrimination occurs when a service provider treats someone less favourably because of the disability itself. In the case of discrimination arising from disability, the question is whether the disabled person has in practice been treated unfavourably because of something connected with their disability.
- Treatment can be justified and will be lawful if it can be shown that it is intended to meet a legitimate objective in a fair, balanced and reasonable way. This means that a service provider must strike a careful balance between the negative impact of a provision on the disabled person and any lawful reason for applying it.

Harassment

- Unwanted conduct which has the purpose or effect of violating someone's dignity or which is hostile, degrading, humiliating or offensive to someone with a protected characteristic or in a way that is sexual in nature.

Victimisation

- Treating someone unfavourably because they have taken (or might be taking) action under the Equality Act or supporting somebody who is doing so.

Positive action

The Equality Act strengthens the capacity for organisations to use positive action to redress discrimination or disadvantage either in the past or present.

It means taking steps to encourage under-represented people with a shared protected characteristic to apply for jobs or use services. These steps are legal and are not to be confused with positive discrimination which is illegal. An organisation must be able to show that there is evidence that indicates that people with a common protected characteristic have a different need or experience disadvantage or have low participation in either recruitment or service take up.

Positive action provisions mean that it is not unlawful discrimination to take special measures aimed at alleviating disadvantage or under-representation experienced by people with protected characteristics.⁽⁵⁵⁾

The Act incorporates general positive action provisions which replicate provisions in earlier legislation, and also introduced new provisions relating specifically to recruitment and promotion in employment.

The general provisions allow employers to target measures such as dedicated training to groups, such as women or people from ethnic minorities, who are under-represented or disadvantaged in the workplace, or to meet their particular needs.

The provisions relating specifically to recruitment and promotion in employment protect people from being treated less favourably because they have a protected characteristic.

As a service provider, organisations can use positive action where they believe one of these conditions apply:

- People who share a protected characteristic suffer a disadvantage associated to that characteristic.
- People who share a protected characteristic have needs that are different from the needs of people who do not have that characteristic.
- Participation in an activity by people who share a protected characteristic is disproportionately low.

Organisations can take proportionate action to address one or all of these situations to achieve one of the following aims:

- Enabling or encouraging people to overcome or minimise disadvantage.
- Meeting different needs.
- Enabling or encouraging participation.

Positive action in recruitment and promotion can be used where an employer reasonably thinks that people with a protected characteristic are under-represented in the workforce, or suffer a disadvantage connected to that protected characteristic.

In practice it allows an employer faced with making a choice between two or more candidates who are of equal merit to take into consideration whether one is from a group that is disproportionately under-represented or otherwise disadvantaged within the workforce. This is sometimes called either a 'tie-breaker' or the 'tipping point'.

But this kind of positive action is only allowed where it is a proportionate way of addressing the under-representation or disadvantage.

Further developments in relation to disability

Both employers and service providers have responsibilities under the Equality Act to make 'reasonable adjustments' for disabled people.

Hospices must be able to demonstrate that they do not disadvantage disabled people through the way services are delivered, physical features of the premises, or through the absence of auxiliary aid(s) or service(s).

Equality law recognises that bringing about equality for disabled people may mean changing the way in which employment is structured, the removal of physical barriers and/or providing extra support for a disabled worker.

The duty to make reasonable adjustments aims to make sure that, as far as is reasonable, a disabled worker has the same access to everything that is involved in doing and keeping a job as a non-disabled person.⁽⁵⁶⁾

When the duty arises, organisations are under a positive and proactive duty to take steps to remove or reduce or prevent the obstacles a disabled worker or job applicant faces. The duty arises where the organisation is aware – or should reasonably be aware – that a worker has a disability.

In practice the adjustments needed may not be particularly expensive, and the legislation requires only 'reasonable adjustments'. What is reasonable for an organisation to do depends, among other factors, on the size and nature of the organisation.

However, if an organisation fails to act, a disabled worker could bring a claim for compensation if they can show that there were barriers an organisation should have identified and reasonable adjustments could have been made.

Service providers also have a legal duty to make 'reasonable adjustments' to ensure that people are not prevented from using their services because they have a disability.

When deciding whether an adjustment is reasonable, service providers can consider issues such as the cost of the adjustment, the practicality of making it, health and safety factors, the size of the organisation, and whether it will achieve the desired effect.

Adjustments can be in the form of physical changes to a building, providing extra services, or changing a policy or procedure.⁽⁵⁷⁾

The definition of 'disability' under the Equality Act 2010

In the act, a person has a disability if:

- they have a physical or mental impairment
- the impairment has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities.

People who have had a disability in the past that meets this definition are also protected by the act.

There are additional provisions relating to people with progressive conditions. People with HIV, cancer or multiple sclerosis are protected by the act from the point of diagnosis. People with some visual impairments are automatically deemed to be disabled.⁽⁵⁸⁾

Public sector equality duty⁽⁵⁹⁾

Under the Equality Act, all public authorities in England, Wales and Scotland⁽⁶⁰⁾ are subject to a new public sector equality duty.

In addition to public authorities, other bodies that carry out public functions⁽⁶¹⁾ are also subject to the duty. Even if they are not carrying out public functions, organisations which receive public sector funding or contracts are likely to have to comply with the duty as part of their grant or contract conditions. Where private or voluntary sector bodies are under contract to deliver public functions they are directly subject to the duty in tandem with the public authority, since the contracting authority always remains responsible for meeting its duty.

The duty applies to eight protected characteristics:

- age
- disability
- gender reassignment

- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Under the duty organisations must have due regard to the need to:

- eliminate discrimination, harassment, victimisation and other conduct that is unlawful under the act
- advance equality of opportunity between people who share a protected characteristic and those who do not
- foster good relations between persons who share a protected characteristic and those who do not

The act indicates that the 'need to advance equality of opportunity' includes the need to:

- remove or minimise disadvantage suffered by particular groups
- take steps to meet different needs of particular groups, and
- encourage participation by particular groups in areas of public life or other activity where they are under-represented.

The act specifies that the 'need to foster good relations' includes the need to tackle prejudice and promote understanding.

There are powers for specific duties to be imposed on public bodies in relation to their public procurement functions, for example by requiring contractors bidding for public sector contracts to demonstrate how they promote equality.

Key legal changes

The majority of the Equality Act provisions were introduced in October 2010 with the rest being phased in over 2010–13. So what exactly is different from previous anti-discriminatory legislation?

A fundamental difference is that new groups are now provided with the same levels of protection from discrimination across all the protected characteristics and all sectors. Below is a summary of key changes.

- Protecting people from discrimination in the recruitment process. The act makes it unlawful for employers to ask job applicants questions about disability or health before making a job offer, except in specified circumstances.
- Protecting people who have been discriminated against because they are perceived to have, or are associated with someone who has, a protected characteristic, for example protecting carers from discrimination. The Equality Act will protect people who are, for example, caring for a disabled child or relative. They will be protected by virtue of their association to that person.
- Protecting pregnant women and mothers from discrimination. The Equality Act makes clear that mothers can breastfeed their children in places like cafes and shops and not be asked to leave. The act also prohibits schools from discriminating against pupils who are pregnant or new mothers.
- Extending the equality duty to require the public sector to take into account the needs of all protected groups (except marital and civil partnership status). The new equality duty will require public authorities to consider the needs of all the protected groups, for example, employment and when designing and delivering services. Timescales for this duty are to be confirmed with the government.
- Changing the definition of gender reassignment, by removing the requirement for medical supervision.
- Harmonising the thresholds for the duty to make reasonable adjustments for disabled people.
- Extending protection in private clubs to sex, religion or belief, pregnancy and maternity, and gender reassignment.

For a more comprehensive list of changes visit the Home Office website – Equalities and Human Rights Commission, 2012.

Human Rights Act 1998

Extract from Charity Commission guidance.⁽⁶²⁾

1. Background

The Human Rights Act makes it unlawful for public authorities, including private bodies that carry out public functions, to act in a manner that is incompatible with the rights and freedoms that are guaranteed by the European Convention on Human Rights.

This will include some charities and voluntary organisations. This guidance looks at how the Human Rights Act affects them.

2. What is meant by 'public authority'?

The Human Rights Act deliberately does not explain the meaning of 'public authority' or 'public function' in detail. It will be for the courts to interpret the Human Rights Act and to decide what are 'public authorities' and what are not. Parliament is specifically excluded from the definition, apart from the House of Lords when sitting as a court.

Although the term 'public authority' is not defined by the Human Rights Act it covers three broad categories:

- Obvious public authorities such as a minister, a government department or agency (including the Charity Commission), local authorities, health authorities and trusts, the armed forces and the police, prison and immigration authorities and public prosecutors. (Everything these bodies do is covered by the Human Rights Act.)
- Courts and tribunals.

- Any person or organisation which carries out some functions of a public nature. Sometimes only part of an organisation would be considered a public authority under the Human Rights Act. Railtrack, for example, is considered a public authority in relation to its work as a safety regulator for the railways, but not when acting as a commercial property developer. (This category includes some charities.)

3. Private bodies with public functions

The Human Rights Act applies to private bodies that have some public functions. Examples of such bodies include:

- privatised utilities that exercise public functions
- regulatory bodies
- professional bodies in their regulatory capacities
- charities and voluntary organisations which carry out public functions for central or local authorities (for example running residential homes)
- private or independent schools
- private companies managing contracted out prisons
- bodies which are legally public corporations.

4. Key characteristics of a public authority

In some cases it may be difficult to know if a body is a public authority for the purposes of the Human Rights Act. Organisations may need to take legal advice to clarify this, but the characteristics of a public authority would include:

- whether the body performs or operates in the public domain as an integral part of a statutory system which performs public law duties
- whether the duty performed is of public significance
- whether the rights or obligations of individuals may be affected in performance of the duty

- whether an individual may be deprived of some legitimate expectation in performance of the duty
- whether the body is non-statutory but is established under the authority of a national or local government body
- whether the body's work is supported by statutory powers and penalties
- whether the body's work involves regulating the activities of the public or section of the public
- whether the body performs functions that national or local government bodies or a health authority would otherwise perform
- whether the body is under a duty to act judicially in exercising what amounts to public powers.

Charities should carefully consider their functions and the legal powers and duties of their organisation; these are important in determining whether a person or body is a public authority for the purposes of the Human Rights Act.

Please note the Charity Commission cannot decide whether or not a body is a public authority.

5. Charities with public functions

Charities do not fall within the definition of a public authority for the purposes of the Human Rights Act by virtue of their being charities. Some charities that appear to be aimed at the individual may in fact be carrying out a public function if they are doing work that would normally be the responsibility of central government or a local or health authority. Many charities and voluntary organisations carry out public functions, either on behalf of, or in partnership with, other authorities. In many cases local authorities have stopped carrying out certain public functions themselves and have entered into contracts with private organisations to carry them out for them. Many of these organisations are charities.

The work a charity does for or on behalf of another authority will be considered a public function for the purposes of the Human Rights Act. Such work must be carried out in a way that is compatible with human rights. As it appears likely that local government work will continue to be entrusted to charities in this way, more and more voluntary and charitable activity will fall within the scope of the Human Rights Act.

Examples of charities with public functions might include:

- residential homes
- hospices
- healthcare and advice centres
- childcare agencies
- housing associations
- family planning and abortion advice centres.

Although it is the functions, ie the legal powers and duties of the organisations, which are important in determining whether a person or body is a public authority for the purposes of the Human Rights Act, it is their relationship with the individual which will come under scrutiny when the Human Rights Act is applied because it gives human rights.

6. Public functions and private acts

If everything that a charity does can be regarded as public functions, then it will all have to be done in a way that is compatible with human rights. More commonly though, charities falling within the definition of a public authority will have some public and some private functions. Private acts are not covered by the Human Rights Act.

For example, where a charity is raising funds or recruiting staff it is probably acting privately. The point is whether the act is one which is carrying out a public function. In the case of a registered

care home the delivery of the care plan is likely to be a public function; the recruitment of the staff is not. In the case of an independent school, decisions about who should supply it with stationery or equipment will be private acts; decisions about the way in which it will provide educational services in the school will be public functions.

7. Implications for charities that fall within the scope of the Human Rights Act

The Human Rights Act makes it unlawful for any organisation (including charities that are public authorities for the purposes of the Human Rights Act) to carry out public functions in a way that is incompatible with the rights and freedoms guaranteed by the European Convention on Human Rights.

It does not create any new offences. To act unlawfully under the Human Rights Act does not mean that a charity (or its trustees) will have committed a criminal offence. Charities do not risk prosecution if they have acted unlawfully under the Human Rights Act unless they have at the same time breached the existing criminal law.

However, if a charity does breach the Human Rights Act it would be liable to the remedies available in the courts. Someone may bring a freestanding case against the charity under the Human Rights Act and could apply to the courts for damages against it.

The key rights of the Human Rights Act 1998 are:

- the right to life
- the right not to be tortured or treated in an inhuman or degrading way
- the right to liberty and security
- the right to respect for private and family life, home and correspondence.

Appendix C: Useful resources

Statutory organisations

Charity Commission for England and Wales

Department for Business, Innovation & Skills (BIS)

Equality and Human Rights Commission

Government Equalities Office

Healthcare Improvement Scotland

Welsh Government – Health Care in Wales

**Department of Health, Social Services
and Public Safety (Northern Ireland)**

Office of the Scottish Charity Regulator

Sources of help

**ACAS (The Advisory,
Conciliation and Arbitration Service)**

ACAS provides information and advice to employers and individuals on legislation and on industrial relations practices and procedures.

Centre for Accessible Environments

Provides technical information, publications, training and access consultancy services to help organisations meet their duties to service users and staff with disabilities.

Citizens Advice

Citizens Advice service helps people resolve their legal, money and other problems by providing advice and information, and by influencing policymakers.

Employers' Forum on Disability

National employers' organisation focused on disability as it affects business. Their aim is to enable companies to become disability confident by making it easier to recruit and retain disabled employees and to serve disabled customers.

**Equality and Human Rights
Commission Helpline Wales**

Gives information and guidance on discrimination and human rights issues.

Equality Direct

Equality Direct provides advice to employers across a range of equality issues (available in England only).

Jobcentre Plus

Telephone numbers and addresses of local Jobcentre Plus offices can be found through the Jobcentre Plus website.

A wide range of practical help and advice to assist employers in the recruitment and employment of disabled people is available, including Access to Work service.

Law Centres Federation

Representative body for law centres in the UK

National Council for Palliative care

Umbrella charity for those involved in palliative, end of life and hospice care in England, Wales and Northern Ireland.

National Council for Voluntary Organisations

Umbrella body for voluntary and community sector organisations in England.

Radar: the disability network

An umbrella group for 900 disability organisations involved in general campaigning on behalf of disabled people.

Scottish Council for Voluntary Organisations

Umbrella body for voluntary organisations in Scotland.

Together for Short Lives

The leading UK charity for all children with life-threatening and life-limiting conditions and all those who support them.

Developed a toolkit to help services to address the challenges and barriers faced in delivering services to children, young people and families from diverse communities.

Wales Council for Voluntary Action

Umbrella body for voluntary organisations in Wales.

Appendix D: Good practice checklist

Across all protected characteristics:

- Review policies and procedures to make sure they take account of equality and diversity across all protected characteristics. Policies and procedures should clearly state that all people will be treated equally.
- Make sure all policies, procedures, publicity and information is accessible to all staff and customers. Where appropriate, information should be available in accessible formats such as Braille or read aloud and should be translated into required formats.
- Make sure all policies, procedures, publicity and information makes use of inclusive language and images which are positive about diversity.
- Actively consider the potential barriers to getting involved which different communities in your area face, and employ a range of approaches to facilitate their involvement.
- Review and deliver training to all staff to incorporate protected characteristics.
- Make sure all training and staff development opportunities are equally available to all.
- Ensure that suppliers subscribe to good practice on equality and diversity as part of a sustainable and inclusive procurement strategy.
- Review recruitment and employment policies and procedures to ensure they offer equal opportunities.
- Engage with partner agencies at strategic and operational levels. A multi-agency approach can enable better planning and coordination of services, making it easier for all service users to access the services they need.
- Make use of clear, user-friendly and confidential systems to carry out equality and diversity monitoring in all areas of activity: as an employer, a service provider and when procuring services.
- Integrate equality and diversity into the core functions of the organisation.
- Communicate the need for a positive approach to equality and diversity and highlight the benefits and the business case internally and externally.
- Have a clearly understood data protection policy and data disclosure policy and ensure that confidential data is used only for the purposes for which it is collected.
- Develop your organisation's approach to hate incidents, such as by providing training for staff and including a clause in your policies prohibiting harassment on the grounds of any of the nine protected characteristics.

(Adapted from Chartered Institute of Housing (2011) Delivering the Equality Act 2010)

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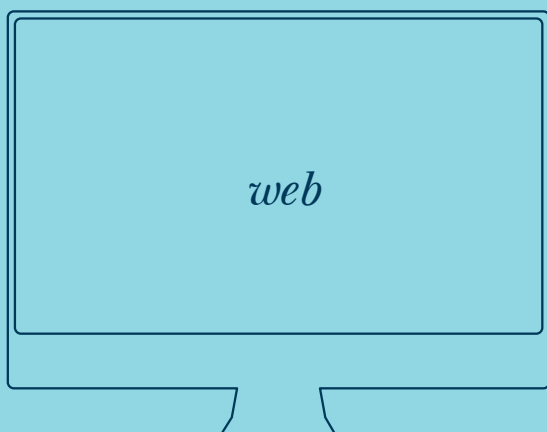
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- (21) Human Rights Commission. The essential guide to the public sector equality duty: England (and non-devolved public authorities in Scotland and Wales), Revised (third) edition. London: Human Rights Commission, 2012.
- (22) Help the Hospices, 2012.
- (23) The Charity Commission has published more detailed guidance on the Human Rights Act and charities.
- (24) Charity Commission. Operational guidance Human Rights Act 1998 Charities and human rights OG 71 B3-18 September 2000.
- (25) The Equalities and Human Rights Commission has published a range of resources to assist in the interpretation and implementation of the Human Rights Act.

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- ⁽⁵⁵⁾ In relation to this aspect of legislation the protected characteristics covered are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race (including ethnic or national origins, colour and nationality), religion or belief (including lack of belief), sex, sexual orientation.
- ⁽⁵⁶⁾ For more detailed guidance visit the EHRC website.
- ⁽⁵⁷⁾ For more detailed guidance visit the EHRC website.
- ⁽⁵⁸⁾ The Government has published statutory guidance on the definition of disability.
- ⁽⁵⁹⁾ As at December 2012, the government has appointed a steering group to examine whether the Public Sector Equality Duty is working as originally intended. This review stems from the Red Tape Challenge exercise – reviewing equalities regulations. The steering group is expected to report in April 2013.
- ⁽⁶⁰⁾ The public authorities to which this duty applies are set out in Schedule 19 of the Equality Act 2010, and examples of these include: local authorities, education bodies (including schools), health bodies, police, fire and transport authorities, and government departments.
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